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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,202	05/15/2001	Thomas Shilale	81621	9309
23685	7590	03/25/2004	EXAMINER	
KRIEGSMAN & KRIEGSMAN 665 FRANKLIN STREET FRAMINGHAM, MA 01702			ORTIZ, ANGELA Y	
			ART UNIT	PAPER NUMBER

1732

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/858,202	Applicant(s) SHILALE, THOMAS	
	Examiner Angela Ortiz	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,12 and 13 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7-11,24 and 25 is/are rejected.
- 7) ☒ Claim(s) 26 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 5, 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staheli, USP 5,028,225 in view of Takagi et al., USP 4,875,647 for the reasons cited in the previous office action.

The cited primary reference substantially teaches the basic claimed process of molding a continuous cable tie. The detailed process steps include providing a continuous web or film of material wherein the web passes through an injection mold and a plastic material having a desired feature is molded onto the section of web material. The product is cut into individual units upon hardening of the resin. Note that cable ties is suggested, see col. 1, lines 17-22. Also see col. 3, line 30 to col. 4, line 25.

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The cited primary reference does not teach molding a head attachment as claimed.

The added reference is cited to show the conventionality of molding a head configuration as claimed, onto a continuous strip of material in the molding of a cable tie. The detailed features include providing a cable tie having a head, a tail, a channel and a locking tang. The tail portion can be inserted into the head, through the channel and form a loop. See col. 3, lines 5-65 and claims 1-6.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to so mold a head of the configuration as shown in the added reference, when performing the continuous molding process set forth in the primary reference, for forming a composite cable tie having the conventional head design as disclosed in the applied prior art.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staheli, USP 5,028,225 in view of Sutherland et al., USP 4,730,615.

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The cited primary reference substantially teaches the basic claimed process of molding a continuous cable tie. The detailed process steps include providing a continuous web or film of material wherein the web passes through an injection mold and a plastic material having a desired feature is molded onto the section of web material. The product is first pre-cut prior to molding and is then finally cut into individual units upon hardening of the resin. Note that forming of cable ties is suggested, see col. 1, lines 17-22. Also see col. 3, line 30 to col. 4, line 25.

The cited primary reference does not teach cutting the material to its finished size and molding a head attachment as claimed.

The added secondary reference teaches as conventional the forming of a continuous length closure device comprising a plastic coated metal web cut to a desired length. The head portion is formed by locating an end of the cut web in a mold, and insert molding or injection molding around the cut end. See col. 3, lines 6-15, 45-50.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to fully cut the web to final size and form an insert molded head portion on the end of the cut strap of material as shown in the added reference, when performing the process set forth in the primary reference, to shorten the molding cycle and avoid two cutting steps as set forth in the applied reference.

Response to Arguments

Applicant's arguments filed 09 February 2004 have been fully considered but they are not persuasive.

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As stated in the advisory action mailed 26 January 2004, the applicant argues the newly added limitation, stating that such overcomes the applied prior art because the prior art does not show the sequence of steps of forming, then cutting, then insert-molding; and further, that the prior art forms a continuous web and molds one article at a time, whereas the instant claims can cut a web into a plurality of straps and permit many molded articles to be formed on a given web simultaneously.

Note that the art shows perforation "before liquid material is injected" (see col. 3 of Staheli as referred in the previous office action) and meets the limitation claimed - the argument stating that the dam does not cut an article to its final size is not persuasive alone because the applied prior art clearly teaches cutting prior to molding.

Note further that while the claim sets forth "cutting to its finished size", such does not distinguish over the previously claimed limitation of cutting to a desired length, particularly when the desired length is the finished size.

Furthermore, the claim does not recite cutting a web into a plurality of straps, or molding many articles simultaneously; thus the argument regarding whether the prior art teaches these unclaimed features does not give patentable weight to the claims of record.

Allowable Subject Matter

Claims 6, 26 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12-13 are allowed.

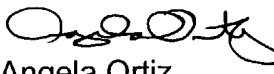
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USP's 6464917; 5360588; 5037595; 5039040.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela Ortiz whose telephone number is 571-272-1206. The examiner can normally be reached on Monday-Thursday 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Angela Ortiz
Primary Examiner
Art Unit 1732